

# 1854 Treaty Authority

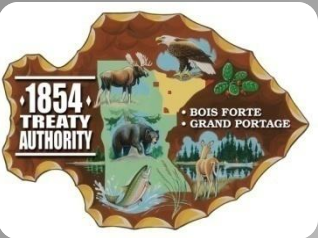
## Inter – Tribal Natural Resources



**Minnesota Forest Resources Council**

**Northeast Landscape Planning Committee**

**April 18, 2012**



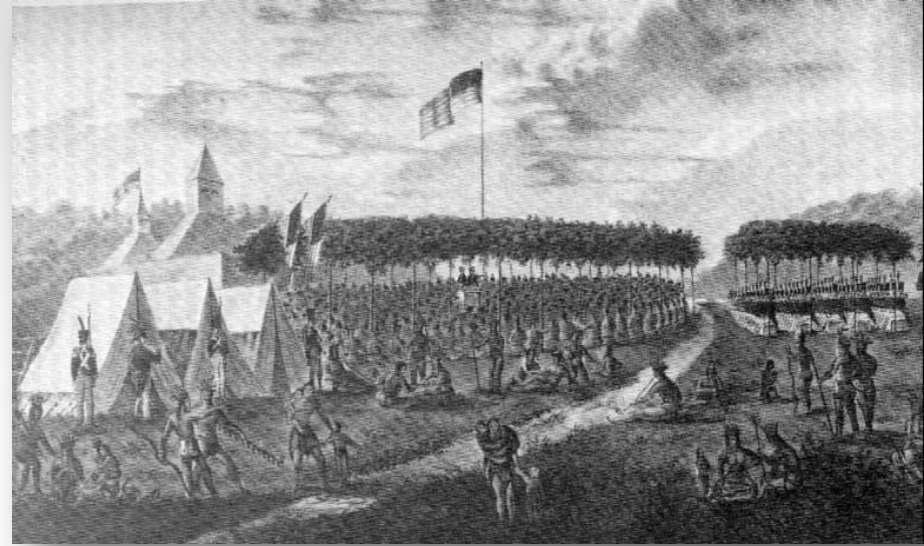
The 1854 Treaty Authority is an Inter-Tribal natural resource management organization that implements the off-reservation hunting, fishing and gathering rights of the Grand Portage and Bois Forte Bands of the Lake Superior Chippewa in the territory ceded under the Treaty of 1854





## Treaty of September 30, 1854

The Chippewa of Lake Superior entered into a treaty with the United States whereby the Chippewa ceded to the United States ownership of their lands in what is now called Minnesota (northeastern portion). These lands are referred to as the 1854 Ceded Territory (a.k.a. 1854 Treaty area).



**Article 11 of the 1854 Treaty provides:**

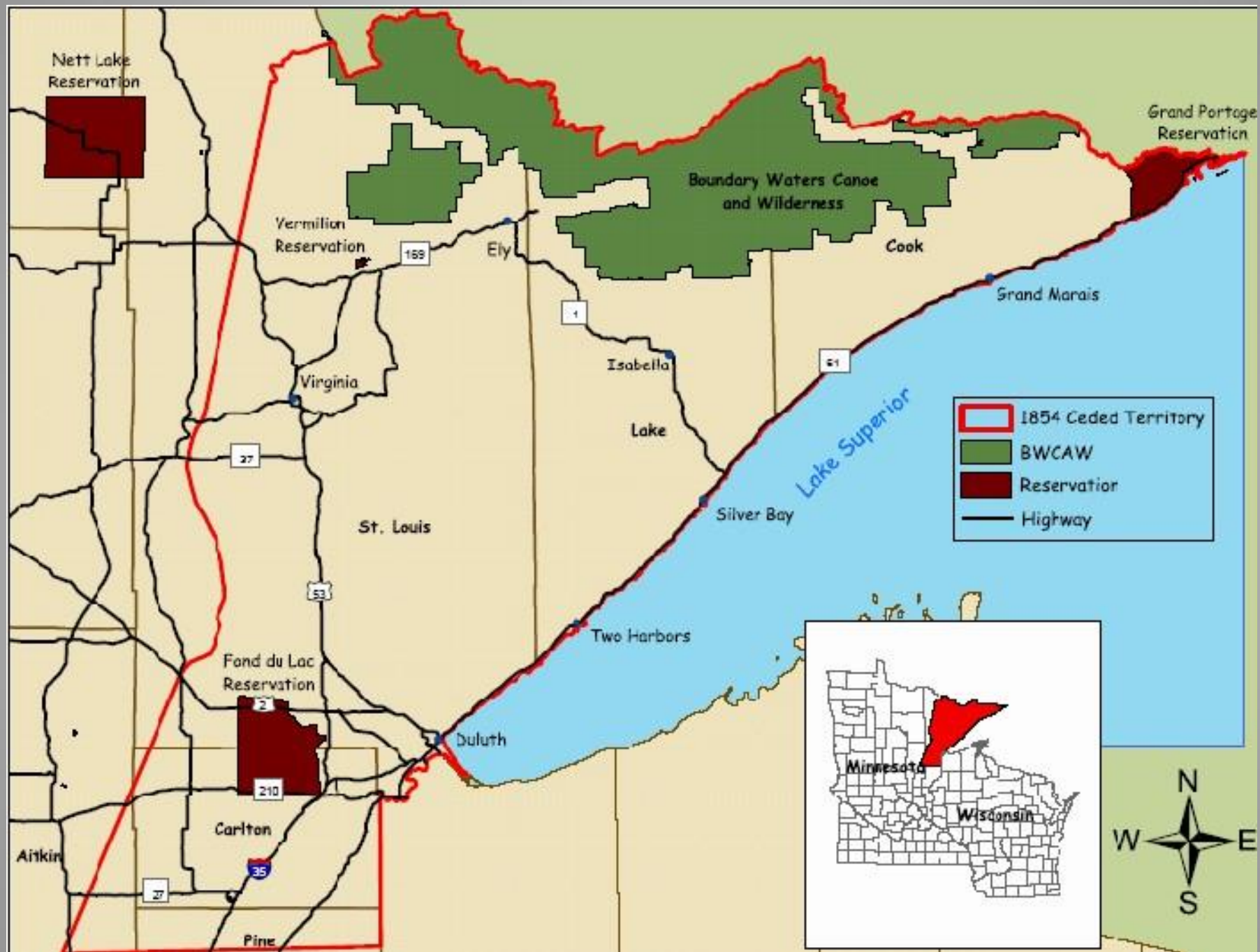
*....and such of them as reside in the territory hereby ceded, shall have the right to hunt and fish therein, until otherwise ordered by the President.*

# The Constitution of the United States

## Article VI.

This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and **all Treaties made**, or which shall be made, under the authority of the United States, **shall be the supreme law of the land**; and the judges in every state shall be bound thereby, any Thing in the Constitution or Laws of any state to the contrary notwithstanding.







**1942 Tulee vs. the State of Washington** – The U.S. Supreme Court decided that because a treaty right takes precedence over state law, Indians with tribal treaty rights can not be required to buy a state license to exercise their treaty fishing rights.



**1969 U.S. vs. the State of Oregon (Belloni Decision) – Federal Judge Belloni held that the state is limited in its power to regulate treaty Indian fisheries. The decision indicated that the state may only regulate when “reasonable and necessary for conservation”; and state conservation regulations must not discriminate against the Indians and must be the least restrictive means.**





**1983 Lac Courte Oreilles vs. Wisconsin (Voigt Decision) – On January 25<sup>th</sup>, 1983, the U.S. Supreme Court of Appeals for the 7<sup>th</sup> Circuit agreed with the Lake Superior Chippewa that hunting, fishing and gathering rights were reserved and protected with a series of treaties between the Chippewa and the United States Government.**



Spearfishing confrontation at boat landing at Balsam Lake, WI, 1989

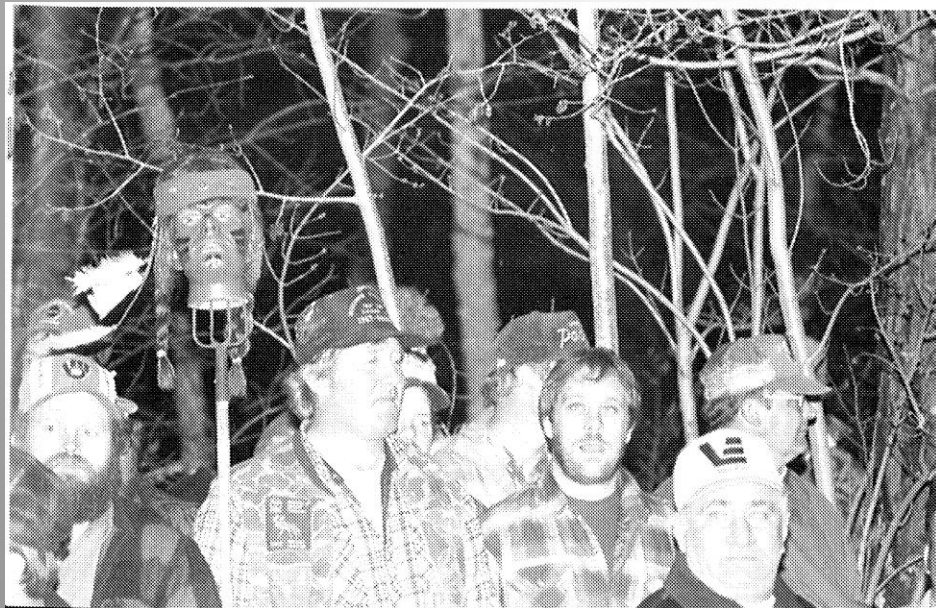
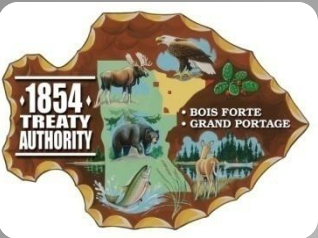
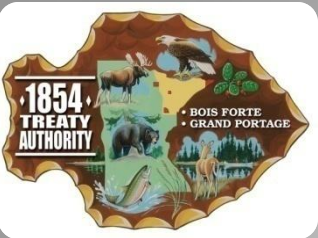


Fig. 35. *Spear This!* A poster found in a tavern in the Eagle River, Wisconsin, area before the 1987 Chippewa spearfishing season. From Great Lakes Indian Fish and Wildlife Commission ({c.1989}, 15). Reprinted with permission.



# 1854 Treaty Authority – Organizational History

**1985** The Grand Portage Band of Lake Superior Chippewa filed suit in U.S. District Court seeking a declaratory judgment that the 1854 Treaty reserved the Band's right to hunt and fish in the ceded territory free of state regulation. The other Bands that signed the treaty and resided in the territory (Fond du Lac, Bois Forte) subsequently joined the lawsuit.



# 1854 Treaty Authority – Organizational History

**1988** The State and the three bands **entered into an agreement** to resolve the suit. Key elements:

☐ Bands regulate member activities (Conservation Code):

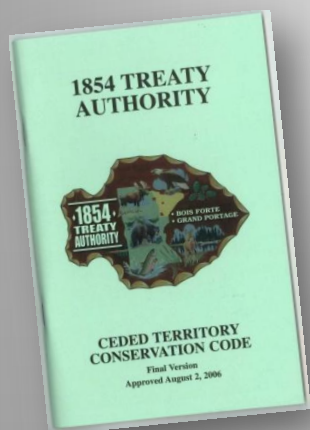
- \* No spearing or netting, except netting permitted in zones adjacent to reservations

- \* No tribal seasons outside State seasons

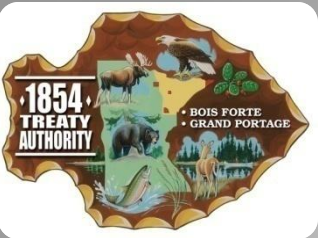
- \* No commercial harvest, except in special zone adjacent to Grand Portage

☐ Cross-deputization for enforcement

☐ Establish a Judicial Services Division

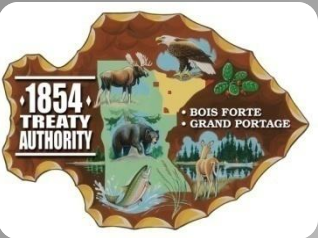






# 1854 Treaty Authority – Organizational History

- 1988** The **Tri-Band Authority was established** to implement the agreement and was governed by a Board of Directors which consisted of the duly elected officials of each of the Grand Portage, Bois Forte, and the Fond du Lac Bands.
- 1989** The **Fond du Lac Band withdrew** from the agreement (any party could withdraw with a one year notice).



# 1854 Treaty Authority – Organizational History

- 1989** The **Tri-Band Authority** became the **1854 Authority** and continued to implement the agreement for the Bois Forte and Grand Portage Bands.
- 2012** The **1854 “Treaty” Authority** continues to implement the agreement. We currently have nine (9) full-time employees and our organization consists of an **Administrative Division**, a **Resource Management Division**, and a **Conservation Enforcement Division**.



**1994 Mille Lacs Band and the U.S. Department of Justice vs. the State of Minnesota, Nine Counties and Landowners – the Mille Lacs Band's treaty rights to hunt, fish and gather on lands ceded in the 1837 Treaty were upheld by U.S. District Court Chief Judge Diana Murphy in August of 1994.**



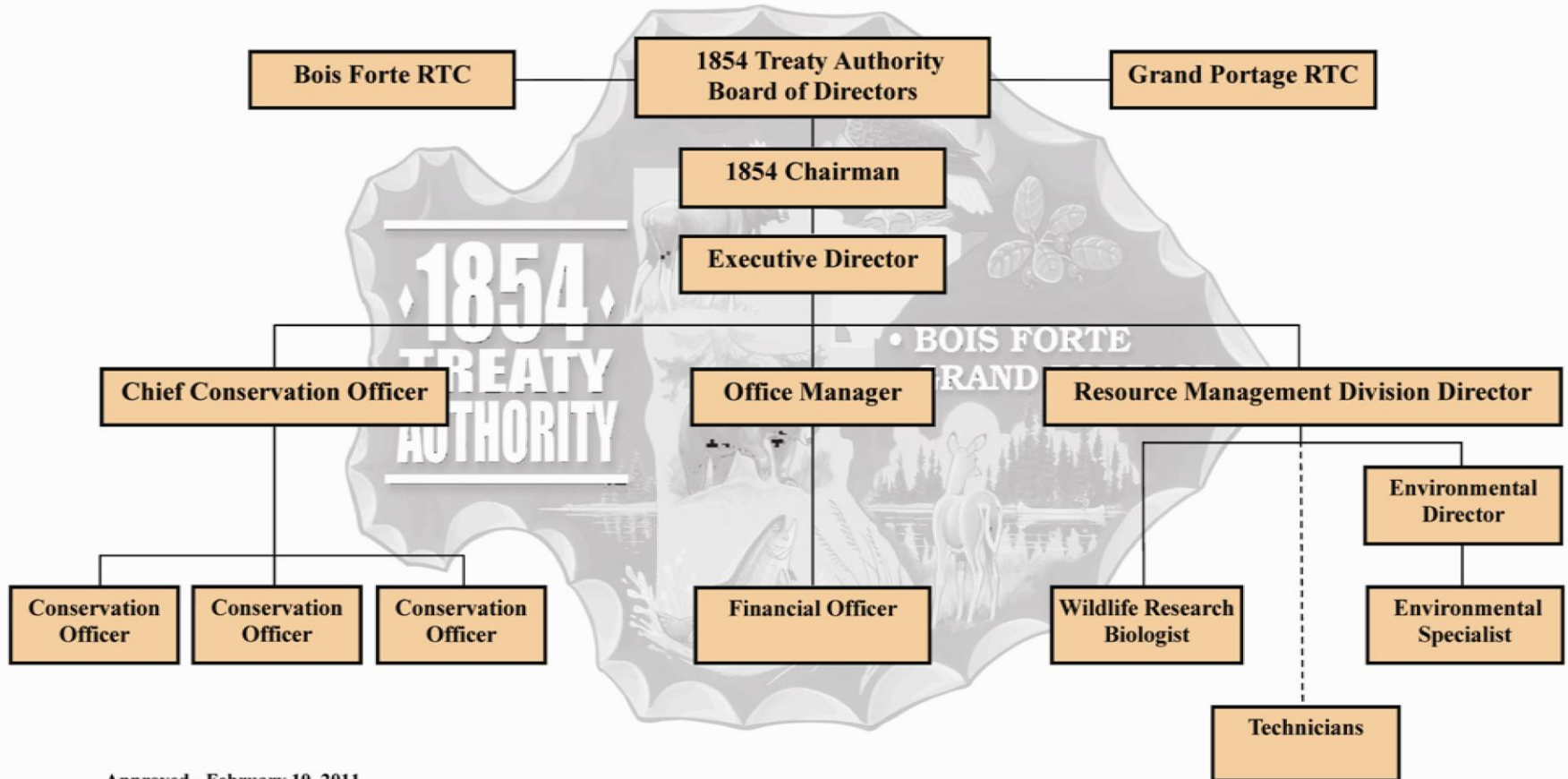
**1996 Fond du Lac vs. the State of Minnesota** – In March of 1996, District Judge Richard Kyle ruled that the Fond du Lac Band reserved and currently retains the right to hunt, fish and gather in the territory ceded under the Treaty of 1854.



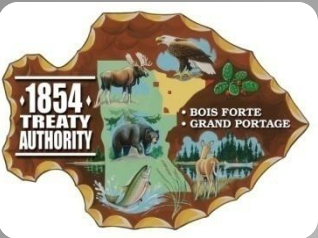


**1999 Mille Lacs Band and the U.S. Department of Justice vs. the State of Minnesota, Nine Counties and Landowners** – In March of 1999, the U.S. Supreme Court upheld the rights of the Mille Lacs Band to hunt, fish and gather in the territory ceded under the Treaty of 1837.

# 1854 Treaty Authority Organizational Chart

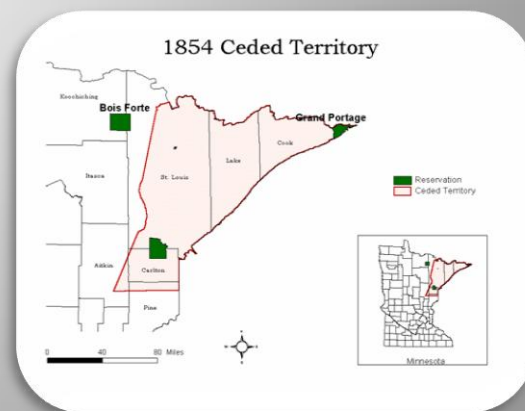


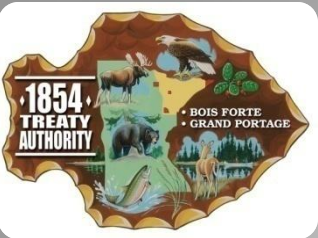
Approved - February 10, 2011



# 1854 Treaty Authority – Authority/Jurisdiction

**The 1854 Treaty Authority is created by the Bois Forte and Grand Portage Reservation Tribal Councils jointly exercising powers under Article VI, Section (C) of the revised constitution of the Minnesota Chippewa Tribe\*, which includes the authority to manage hunting, fishing and gathering rights reserved by the Bands in the Treaty of September 30, 1854, and Article VI, Section (e) by delegating authority to this organization.**





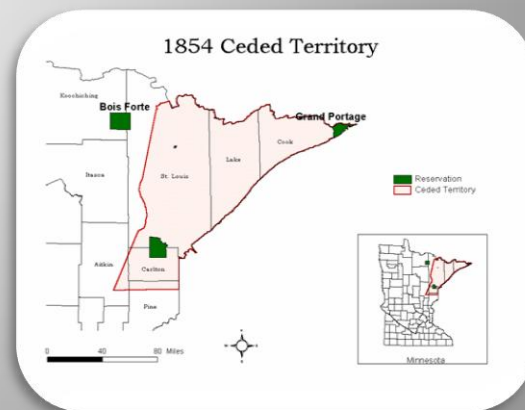
# 1854 Treaty Authority – Authority/Jurisdiction

What does that mean?

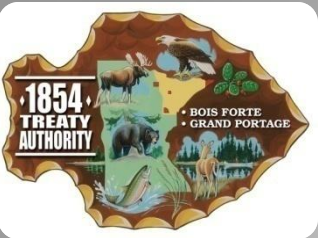
We have judicial and regulatory authority over qualified Band members exercising their **off-reservation treaty rights in the 1854 Ceded Territory**.

Through a Joint Powers Agreement (JPA) with the State of Minnesota (2005), we have authority to enforce state game and fish, natural resource and recreation laws and regulations over non-Band members within the 1854 Ceded Territory.

All our officers are P.O.S.T. certified and hold all powers bestowed upon peace officers.



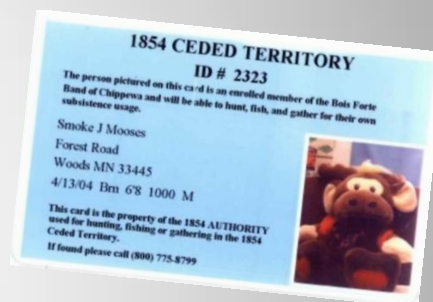


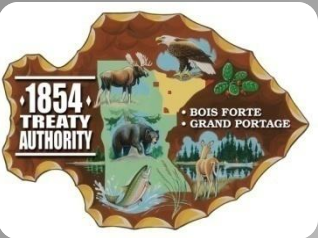


# 1854 Treaty Authority – Constituency

Any duly enrolled member of the **Grand Portage** or **Bois Forte** Bands of the Lake Superior Chippewa.

Upon eligibility determination, we will issue an Identification Card which allows for full right to all programs and services.

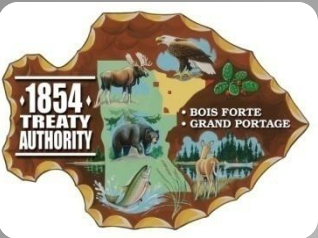




# **1854 Treaty Authority – Mission**

## **Mission Statement**

**The 1854 Treaty Authority shall provide an inter-Tribal natural resource program to ensure that the rights secured to member Indian Tribes by treaties of the United States to hunt, fish and gather within the 1854 Ceded Territory shall be protected, preserved and enhanced for the benefit of present and future members of member Indian Tribes in a manner consistent with the character of such rights, through provision of services.**

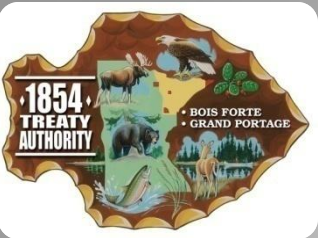


# 1854 Treaty Authority - Organizational Goals

**GOAL:** Provide an organization capable of delivering 1854 Treaty Authority PROGRAMS to its qualified participants.



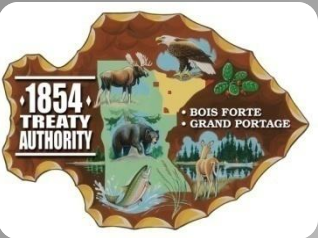




# 1854 Treaty Authority - Organizational Goals

**GOAL:**      **Protect, preserve, and enhance the off-reservation hunting, fishing and gathering RIGHTS of the Grand Portage and Bois Forte Bands of the Lake Superior Chippewa.**



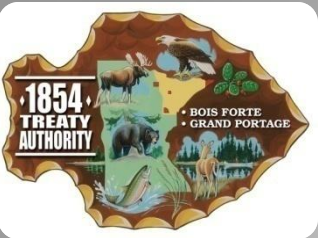


# 1854 Treaty Authority - Organizational Goals

**GOAL:**      **Protect, preserve, and enhance the trust RESOURCES of the 1854 Treaty area.**

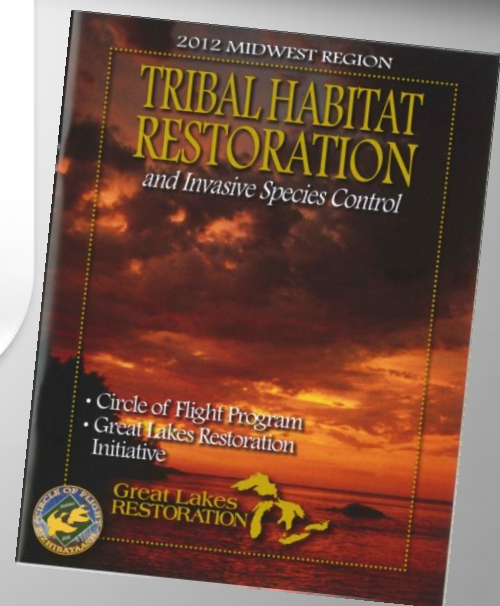
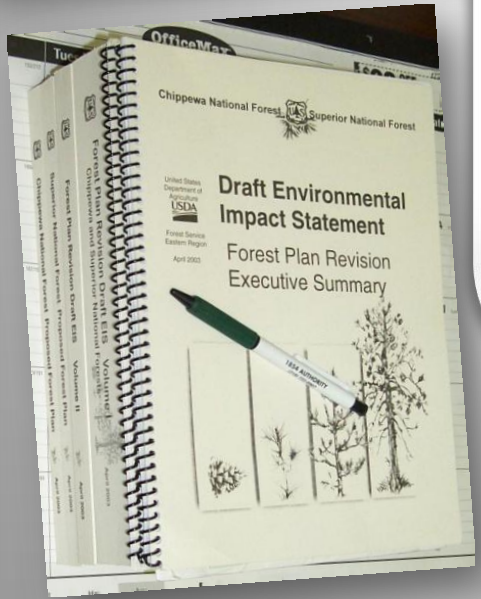


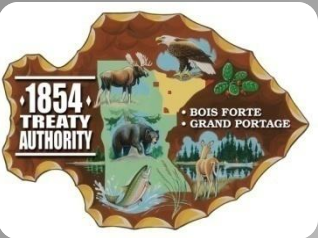




# 1854 Treaty Authority

## Primary Focus Areas





# 1854 Treaty Authority – More Information



## 1854 TREATY AUTHORITY

GRAND PORTAGE • BOIS FORTE

[ABOUT US](#)[FISHERIES](#)[ENFORCEMENT](#)[WILD RICE](#)[WILDLIFE](#)[ENVIRONMENT](#)[CULTURAL RESOURCES](#)[CONTACT US](#)

### THE 1854 TREATY AUTHORITY

is an Inter-Tribal natural Resource Management Agency that manages the off-reservation hunting, fishing, and gathering rights of the Grand Portage and Bois Forte bands of the Lake Superior Chippewa in the territory ceded under the Treaty of 1854.



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# 1854 Treaty Authority

## Inter – Tribal Natural Resources

